

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

20-MJ-183-HKS

MICHAEL REGAN,

Defendant.

NOTICE OF MOTION AND MOTION

THE UNITED STATES OF AMERICA, by and through its attorney, James P. Kennedy, Jr., United States Attorney for the Western District of New York, Caitlin M. Higgins, Assistant United States Attorney, hereby moves the Court for an extension of the Rule 48(b) dismissal set for June 11, 2021, for the reasons set forth in the attached affirmation.

DATED: Buffalo, New York, June 9, 2021.

JAMES P. KENNEDY, JR.
United States Attorney

BY: /s/ Caitlin M. Higgins
CAITLIN M. HIGGINS
Assistant United States Attorney
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AFFIRMATION

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

Caitlin M. Higgins, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and assigned to my office's file regarding this action. This affidavit is submitted in support of the government's motion for an extension of the Rule 48(b) dismissal set for June 11, 2021.

2. On April 4, 2021, and based on representations made by the parties regarding the likely pre-indictment resolution of this matter, the Court adjourned the FRCP, Rule 48(b) date until June 11, 2021.

3. Since that date, the government has provided defense counsel with discovery and the parties have engaged in significant plea negotiations, including discussions regarding whether certain enhancements apply to the case at hand. The parties are close to finalizing a plea. Once defense counsel is able to discuss the plea in detail with the defendant, the parties expect to schedule this matter for a plea proceeding in the very near future.

4. The parties are requesting that the Rule 48(b) date be extended to July 12, 2021, to allow the parties a reasonable time to finalize plea negotiations and schedule this matter for a plea. Counsel for defendant, Fonda Kubiak, AFD, also stated to your affiant that the defendant joins in both the request for the adjournment and exclusion of time pursuant to the Speedy Trial Act.

5. Since the parties have agreed to the terms of a pre-indictment resolution of this matter and expect to have the matter scheduled for a plea in the near future, speedy trial time in this matter should be excluded to afford the parties a reasonable opportunity to schedule this matter for a plea. The public's interest in conserving resources by avoiding the unnecessary use of the grand jury, the time and expense of both a trial and a likely appeal, combined with the certainty of conviction that will be obtained through a plea of guilty by the defendant, outweigh the public's interests in a speedy trial. Furthermore, the defendant's interest in obtaining the benefit of a lesser sentence which will likely accompany the pretrial disposition of this matter outweigh the interests of the defendant in a speedy trial. Based on the foregoing representations, the exclusion of time in this matter is in the interest of justice

and not contrary to the interests of the public and the defendant in a speedy trial pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv).

WHEREFORE, it is respectfully requested that the Rule 48(b) dismissal date be set for July 12, 2021, and that the time from and including June 11, 2021, to and including July 12, 2021, be excluded from the Speedy Trial Act.

/s/ Caitlin M. Higgins
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